

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

August 28, 2009

CDUP: OA-3230

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) OA-3230 for the Temporary Bypass Road and Replacement of the North Kahana Stream Bridge

APPLICANT: State of Hawaii
Department of Transportation- Highways Division

LANDOWNER: State of Hawaii
Department of Land & Natural Resources-State Parks

LOCATION: Ahupuaa O Kahana State Park
Koolauloa, Oahu

TMK: Portion of: (1) 5-2-005:003

AREA OF USE: Approximately (\approx) .71 acres

SUBZONE: Resource

BACKGROUND:

On October 14, 2005, the Board of Land and Natural Resources (Board) approved CDUP OA-3230 for the temporary bypass road and bridge for the Kamehameha Highway North Kahana Bridge replacement project located at Ahupua'a O Kahana State Park, Ko'olauloa, Oahu, TMK: (1) 5-2-005:003 subject to twenty-one terms and conditions (**Exhibit 1**).

On September 20, 2006, the Department approved a request for a first time extension to initiate construction by October 14, 2008 and complete construction by October 14, 2010.

TIME EXTENSION REQUEST:

On August 12, 2009, the Office of Conservation and Coastal Lands (OCCL) received a correspondence from the DOT-HWY's consultant, AECOM Pacific, Inc requesting a time extension to complete the project (**Exhibit 2**). Staff discussed this matter with the consultant and according to AECOM, construction has commenced with site investigations, topographic surveying, toning existing waterlines on the existing bridge, traffic flow studies and geotechnical exploration. The request is for a two-year time extension. The project has been awarded and major construction is tentatively scheduled for September 2009.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Section 13-5-43, Hawaii Administrative Rules (HAR), which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

§13-5-43, HAR provides that time extensions may be granted by the Board upon the second or subsequent request for a time extension, based on supportive documentation from the applicant.

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the requested time extension. Approval of the time extension request will hopefully provide the additional time needed to complete the necessary improvements for the North Kahana bridge replacement.

RECOMMENDATION:

Staff recommends that the Board of Land and Natural Resources **APPROVE** an extension of two years to complete construction of the temporary bypass road and bridge for the Kamehameha Highway North Kahana Bridge replacement project located at Ahupua'a O Kahana State Park, Ko'olaupua, Oahu, TMK: (1) 5-2-005:003 subject to the following conditions:

1. That condition 5 of CDUP OA-3230 is amended to provide that the Permittee has until October 14, 2012, to complete construction; and
2. That all other conditions imposed by the Board under CDUP OA-3230, as amended, shall remain in effect.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



Laura Thielen, Chairperson
Board of Land and Natural Resources

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

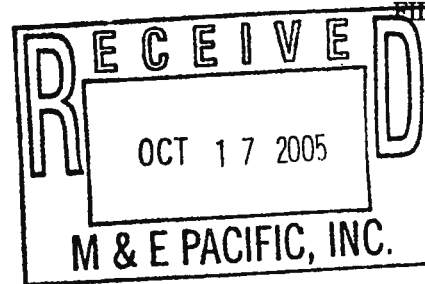
ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

Alan Tomita, Project Manager
M&E Pacific, Inc.
841 Bishop Street
Davies Pacific Center, Suite 1900
Honolulu, Hawaii 96813



FILE NO. OA-3230

OCT 14 2005

Dear Mr. Tomita:

SUBJECT: Conservation District Use Permit (CDUP) OA-3230

This is to inform you that on October 14, 2005, the Board of Land and Natural Resources approved your client's Conservation District Use Application for the temporary bypass road and bridge for the Kamehameha Highway North Kahana Bridge replacement project located at Ahupua'a O Kahana State Park, Ko'olauloa, Oahu, TMK: (1) 5-2-005:003 subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the Hawaii Administrative Rules, Chapter 13-5;
2. The applicant shall obtain appropriate authorization from the Department for the occupancy of State lands;
3. The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control" if applicable;
4. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;

EXHIBIT 1

6. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
7. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
8. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
9. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
10. Cleared areas shall be revegetated within thirty (30) days unless otherwise provided for in a plan on file with and approved with the department;
11. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
12. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the Historic Preservation Division and State Parks archeologists, which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
13. The applicant shall install barriers alongside the makai side of the bypass road to prevent any vehicular access into the beach park area;
14. Existing State Park parking lot areas are not to be impaired by the project;
15. Upon removal of the temporary bypass road, the applicant shall install at least 3 additional picnic tables in the beach park;
16. In collaboration with State Parks, the applicant shall restore and landscape the park setting once the bridge replacement has been completed;
17. The applicant shall take measures to insure that entry into and exit from the park at Kahana Valley Road will remain open for park residents and visitors during construction;
18. The applicant shall minimize impacts to the "Coconut Grove" on the mauka side of Kamehameha Highway during construction and the area will be restored upon completion of the project, including replacement of fences;

19. The applicant shall mitigate the potential for flooding of the park during the duration of the project and after the completion of the new bridge;
20. Other terms and conditions as may be prescribed by the Chairperson; and
21. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, please feel free to contact Tiger Mills at 587-0382.

Sincerely,



for Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:



Applicant's Signature

Date 10/17/05

c: Chairperson
Administrator, DLNR-State Parks Division
Oahu District Land Office
City and County of Honolulu, Department of Planning and Permitting

AECOM Pacific, Inc.
841 Bishop Street, Suite 1900, Honolulu, Hawaii 96813
T 808 521.3051 F 808 524.0246 www.aecom.com

RECEIVED
CONSERVATION
COASTAL LANDS

2009 AUG 12 A 9:59

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr. Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Kalanimoku Building, Room 220
1151 Punchbowl Street
Honolulu, Hawaii 96813

August 11, 2009

Dear Mr. Lemmo,

**Subject: Conservation District Use Permit (CDUP) OA-3230
Kamehameha Highway, Replacement of North Kahana Stream Bridge
Federal Aid Project No. BR-083-1(53)
Extension Request**

We would like to request an extension for the subject project. Attached are the plans and specifications to comply with the conditions (below) of the permit for the subject project.

The permit, processed for the State of Hawaii, Department of Transportation, Highways Division, was approved by the Board of Natural Resources on October 14, 2005. The permit was granted an extension on September 20, 2006 (attached). Construction must commence by October 14, 2008 and must be completed by October 14, 2010. Construction will not be completed within this timeframe. The DLNR approval letter dated October 14, 2005 (attached) outlines the following condition:

- "4. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;"

The project has been bid out and awarded, and the construction start has been tentatively rescheduled for September 2009.

EXHIBIT 2

Should you have any questions or would like to discuss this further please contact me at 521.3051 or Ming.Ding@aecom.com.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ming Ding', with a stylized, cursive script.

Ming Ding
Manager of Engineering

Enclosures